

01 MAY 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John C. Gatz
Bayer Healthcare, LLC
555 White Plains Road
Tarrytown, NY 10591

In re Application of:	:	
KURIGER et al, Rex	:	
Application No.: 10/590,531	:	DECISION
PCT Application No.: PCT/US05/003621	:	
Int. Filing Date: 04 February 2005	:	UNDER
Priority Date: 06 February 2004	:	
Atty Docket No.: 47082-090USPX	:	
For: METHOD AND APPARATUS FOR	:	37 CFR 1.137(b)
MEASURING AN ANALYTE IN A BODY FLUID	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)" filed 24 August 2006, which has been treated as a petition under 37 C.F.R. 1.137(b).

BACKGROUND

On 04 February 2005, applicant filed international application PCT/US2005/003621, which designated the U.S. and claimed priority date of 06 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 August 2006. Accordingly, PCT/US2005/003621 became abandoned as to the United States of America at midnight of 06 August 2006 for failure to timely pay the Basic National Fee.

On 24 August 2006, applicant filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has provided the required reply.

Regarding item (2), applicant has provided the required petition fee.

Regarding item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons noted above, petition to revive under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



Bena Miller
Detaillee PCT Legal Examiner
Office of PCT Legal Administration



Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration